

1 Timothy M. Frank (California Bar No. 263245)

2 timothy.frank@hnbllc.com

3 Joseph H. Boyle (*pro hac vice*)

4 joe.boyle@hnbllc.com

5 Stephen M. Ferguson (*pro hac vice*)

6 stephen.ferguson@hnbllc.com

7 HAGAN NOLL & BOYLE LLC

8 820 Gessner, Suite 940

9 Houston, Texas 77024

10 Telephone: (713) 343-0478

11 Facsimile: (713) 758-0146

12 David A. Van Riper (California Bar No. 128059)

13 dave@vanriperlaw.com

14 VAN RIPER LAW

15 1254 Irvine Blvd., Suite 200

16 Tustin, California 92780-3571

17 Telephone: (714) 731-1800

18 Facsimile: (714) 731-1811

19 Attorneys for Plaintiff DISH Network L.L.C.

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

19 DISH NETWORK L.L.C.,

20 Plaintiff,

21 v.

22 JADOO TV, INC. et al.,

23 Defendants.

Case No. 2:18-cv-9768-FMO (KSx)

**DISH NETWORK L.L.C.'S
OPPOSITION TO DEFENDANTS'
APPLICATION FOR AN *EX PARTE*
ORDER TO CONTINUE HEARING
DATE ON DEFENDANTS' MOTION
TO QUASH SUBPOENAS PURSUANT
TO FEDERAL RULE OF CIVIL
PROCEDURE 45**

Date: September 4, 2019

Time: 10:00 a.m.

Ctrm: 580

Judge: Hon. Karen L. Stevenson

1 Plaintiff DISH Network L.L.C. (“DISH”) respectfully submits this opposition
 2 to Defendants JadooTV, Inc. (“JadooTV”) and Sajid Sohail’s (“Sohail” and
 3 collectively with JadooTV, “Defendants”) application for an *ex parte* order to
 4 continue the September 4, 2019 hearing on Defendants’ motion to quash non-party
 5 subpoenas pursuant to Federal Rule of Civil Procedure 45.¹

6 I. INTRODUCTION

7 Defendants’ application for an *ex parte* order to continue the September 4,
 8 2019 hearing on Defendants’ motion to quash non-party subpoenas should be denied
 9 because the Court has already found that the automatic stay resulting from JadooTV’s
 10 bankruptcy does not apply to non-debtors. Consequently, Defendants lack standing
 11 to bring their motion to quash under Rule 45. The Court should deny Defendants’
 12 motion to quash non-party subpoenas on or before September 4, 2019, with or
 13 without a hearing—not further delay a hearing on this motion that is preventing DISH
 14 from conducting non-party discovery.

15 II. ARGUMENT

16 On August 14, 2019, this Court found that the automatic stay resulting from
 17 JadooTV’s bankruptcy filing does not extend to non-debtor Defendant Sohail, despite
 18 him being an officer and owner of JadooTV. (Dkt. 96 at 7.) The Court also found
 19 that the Ninth Circuit has not adopted the “unusual circumstances” exception to the
 20 general rule that a bankruptcy stay does not extend to non-debtor defendants. (*Id.* at
 21 8-9.) Consequently, the Court granted DISH’s motion to compel Sohail’s production
 22 of documents and DISH’s request for its expenses incurred in bringing the motion to
 23 compel, finding Sohail’s assertion that “the case against Sohail is also very likely to
 24 be stayed” was tenuous at best. (*Id.* at 10.)

25 Despite the Court’s findings, Defendants’ subsequently filed a reply in support
 26 of its motion to quash continuing to claim that DISH’s non-party subpoenas are

27 ¹ DISH does not oppose Defendants’ motion to continue the October 2, 2019 hearing
 28 on DISH’s motion for an award of expenses incurred in bringing DISH’s motion to
 compel Sohail’s production of documents to a date on or after October 23, 2019.

1 “blatant violations of the automatic stay.” (Dkt. 97 at 1:8-9.) Defendants’ motion
 2 to quash makes an even more tenuous claim that the automatic stay as to JadooTV
 3 prevents DISH from conducting non-party discovery. The automatic stay does not
 4 apply to non-debtors, the non-party subpoenas do not violate the automatic stay, and
 5 Defendants therefore lack standing to bring a motion to quash pursuant to Rule 45.
 6 (Dkt. 95 at 3-11; Dkt. 96 at 7-9.)

7 Defendants’ counsel is not required to be at a hearing in the JadooTV
 8 bankruptcy court on September 4, 2019. Defendants’ counsel is not JadooTV’s
 9 bankruptcy counsel, and he has not been authorized by the bankruptcy court to appear
 10 on JadooTV’s behalf. (Ferguson Decl. ¶ 2, Ex. 1.) On August 22, 2019, JadooTV’s
 11 bankruptcy counsel filed an *ex parte* motion to continue a status conference and
 12 hearings on JadooTV’s stock repurchase motion and defense costs motion from
 13 August 28, 2019 to September 4, 2019—the same date that Defendants’ counsel set
 14 weeks earlier for the hearing on Defendants’ motion to quash non-party subpoenas.²
 15 (Ferguson Decl. ¶ 3, Ex. 2; *see* Dkt. 94 (filed on Aug. 5, 2019).) Defendants’ counsel
 16 does not have any motions pending before the bankruptcy court on September 4.
 17 When asked why Defendants’ counsel believed he needed to be in the JadooTV
 18 bankruptcy court on September 4, he responded that he needed to attend the status
 19 conference because the bankruptcy court may have questions about his fees or this
 20 civil litigation.³ (Ferguson Decl. ¶ 4.) JadooTV’s bankruptcy counsel can answer
 21 questions about this civil litigation and has done so before and after July 9, 2019
 22 when Defendants’ counsel first made an appearance in this case. (*See* Dkt. 89.)

23 DISH requested that Defendants withdraw their motion to quash non-party
 24 subpoenas in light of the Court’s Order finding the automatic stay does not apply to

25 ² DISH’s motion to lift the stay as to JadooTV is also set for hearing in the bankruptcy
 26 court on September 4, 2019.

27 ³ JadooTV filed an application to retain Chan Punzalan LLP as its litigation counsel
 28 with a “No Hearing Requested” notation on the caption and it is not on the bankruptcy
 court’s docket for September 4. (*See* Ferguson Decl. ¶ 2, Ex. 1 at Dkts. 92, 114.)

1 non-debtors and because Defendants' lack standing to bring a motion to quash under
2 Rule 45. (Ferguson Decl. ¶ 5, Ex. 3.) Defendants refused to withdraw the motion
3 and appear to be continuing to pursue it with an improper purpose of unnecessarily
4 delaying non-party discovery in this case.

5 III. CONCLUSION

6 The Court should deny Defendants' application for an *ex parte* order to
7 continue the September 4, 2019 hearing on Defendants' motion to quash subpoenas,
8 or deny Defendants' motion to quash subpoenas without a hearing.

9 Dated: August 28, 2019 Respectfully submitted,

10 By: /s/ Stephen M. Ferguson

11 Stephen M. Ferguson (*pro hac vice*)

12 stephen.ferguson@hnbllc.com

13 Timothy M. Frank (California Bar No. 263245)

14 timothy.frank@hnbllc.com

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22 David A. Van Riper (California Bar No. 128059)

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28 Facsimile: (714) 731-1811

Attorneys for Plaintiffs DISH Network L.L.C.